

REMARKS

Claims 1, 2, 4-15, 23, 30-34 and 36-38 were pending and rejected. Claims 1 and 6-8 are being amended. Claims 1, 2, 4-15, 23, 30-34 and 36-38 are now pending. Reconsideration is respectfully requested.

Applicant is amending claims 1 and 6-8 to correct only a few minor grammatical errors. No new matter is being added. No substantive amendments are being made.

In paragraph 4, the Examiner rejected claims 1, 2, 4-8, 14-15, 30-34, and 36-37 under 35 USC § 103(a) as unpatentable over Leet (6,000,838) in view of McIlroy (5,583,758).

In paragraph 4(A), the Examiner addressed independent claim 1, which reads as follows:

1. *A computer system for assisting a medical practitioner, comprising:
medical practitioner input means for receiving new patient data regarding a patient, a diagnosis regarding the patient, and a treatment plan for the patient from a medical practitioner;
first means for using a portion of the new patient data to access a standard diagnosis database to obtain standard diagnosis criteria, for comparing the diagnosis and the treatment plan against known patient data and known medical information, and for generating alarms if the diagnosis or treatment plan is inappropriate or advice regarding the diagnosis or the treatment plan;
second means for communicating the alarms, advice and diagnosis criteria to the medical practitioner; and
third means for implementing at least a portion of the treatment plan.*

Claim 1 recites a mechanism for using a portion of the new patient data to obtain standard diagnosis criteria for a medical practitioner. Specifically, the Examiner indicated that col. 2 line 43 – col. 3 line 9 and Figure 9b of McIlroy teaches using a portion of the new patient data to access a standard diagnosis database to obtain standard diagnosis criteria and to communicate the diagnosis criteria to the medical practitioner. However, McIlroy describes using new patient data to start a diagnosis process “leading to” an output being “guideline treatment option(s),” not standard diagnosis criteria. McIlroy col. 3, line 4. Moreover, the process illustrated in Figure 9b of McIlroy uses diagnosis-based guidelines in “interactive question and answer methodology,” the answer being selectable from predetermined sets of answers (e.g., pass, fail, multiple-choice

selection). Col. 2, lines 66-67; col. 12, lines 9-17. The process described by McIlroy does not give the medical practitioner access to the diagnosis criteria. Rather, the McIlroy system outputs guideline treatment options. In McIlroy, the medical practitioner may, optionally, “enter an actual or proposed treatment prior to or after obtaining the guideline treatment options.” Col. 13, lines 30-32. However, in McIlroy, the diagnosis criteria used to determine the guidelines are not disclosed to or otherwise made accessible to the medical practitioner.

By contrast, claim 1 recites a mechanism for using a portion of the new patient data to obtain standard diagnosis criteria. The standard diagnosis criteria themselves, as opposed to merely the resulting treatment options based on such diagnosis criteria, are obtained (e.g., determined, displayed, made accessible) to the medical practitioner.

Accordingly, for at least the foregoing reasons, Applicant respectfully submits that independent claim 1 and claims 2, 4-8, 14-15, and 30-32 dependent therefrom are patentable over Leet in view of McIlroy and respectfully requests that the rejection be withdrawn.

In paragraph 4(B), the Examiner rejected claim 2 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy. Claim 2 reads as follows:

2. *The computer system of claim 1 wherein the first means comprises a suggest diagnosis means for accessing a suggested diagnosis database to retrieve a suggested diagnosis based on at least a portion of the new patient data, and a check diagnosis means for comparing the diagnosis to the suggested diagnosis and for generating an alarm if there is a substantial difference.*

Claim 2 recites “retriev[ing] a suggested diagnosis based on at least a portion of the new patient data.” In the claimed system, the suggested diagnosis is thus an output, not an input, and it is output by the computer system. By contrast, Leet describes a system that outputs cause and treatment of disease conditions. The Leet system output is not a suggested diagnosis. Rather, the Leet system uses a diagnosis code as input, not as output. Leet col. 3, lines 27-33. As input, the Leet diagnosis code is a suggested diagnosis determined by the medical practitioner, not by the Leet system.

McIlroy describes a system that outputs guideline treatment options. McIlroy col.3, line 4. The McIlroy output is not a suggested diagnosis. Treatment options are not a suggested diagnosis. Accordingly, for at least the foregoing reasons, Applicant respectfully submits that

claim 2 is patentable over Leet in view of McIlroy and respectfully requests that the rejection be withdrawn.

In paragraph 4(F), the Examiner rejected claim 7 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy. Claim 7 reads as follows:

7. The computer system of claim 1 wherein the first means comprises a get patient data means for retrieving the known patient data; and a treatment search means for accessing a treatment recommendation database and using a subset of the new patient data and a subset of the known patient data to determine a treatment individualization recommendation.

Claim 7 recites a “treatment individualization recommendation.” Specifically, the Examiner stated that col. 12 line 50 – col. 13 line 1 of Leet teaches using a subset of the new patient data and a subset of the known patient data to determine a treatment individualization recommendation. However, Leet describes “proposed drug treatments” that “are ranked in [] order initially based on national recommendations.” “[T]he rankings may change in time based on the results of laboratory culture and sensitivity studies in a selected geographic area.” Leet, col. 12, lines 63-66. Treatments ranked based on national and geographic area demographics are not individualized. Accordingly, for at least the foregoing reasons, Applicant respectfully submits that claim 7 is patentable over Leet in view of McIlroy and respectfully requests that the rejection be withdrawn.

In paragraph 4(K), the Examiner rejected claim 31 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy. Claim 31 reads as follows:

31. The computer system of claim 1 wherein the third means comprises an International Classification of Disease (ICD) determination means for processing a subset of the new patient data, a subset of the diagnosis and a subset of the treatment plan to determine an ICD.

Claim 31 recites “processing a subset of the new patient data . . . to determine an ICD.” The Examiner indicated that col. 1 lines 23-28, col. 7 lines 39-46 and Table I of Leet teach using a subset of the new patient data to determine an International Classification of Disease (ICD). Applicant respectfully disagrees. Leet col. 3 lines 26-40 describes storing a diagnosis code used

as a key to access information. The sections of Leet cited by the Examiner describe that the diagnosis code may be the ICD code, not that such ICD code may be determined by using, or processing, a subset of the new patient data. Accordingly, for at least the foregoing reasons, Applicant respectfully submits that claim 31 is patentable over Leet in view of McIlroy and respectfully requests that the rejection be withdrawn.

In paragraph 4(M), the Examiner rejected independent claim 33 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy. Claim 33 reads as follows:

33. *A computerized method for providing assistance to a medical practitioner, the method being accomplished using a personal communicator, a computer processor coupled to the personal communicator through a communications medium, a data storage medium coupled to the computer processor, and resources coupled to the computer processor, the method comprising:*
entering new patient data into the personal communicator;
using a standard diagnosis criteria database and a portion of the new patient data to determine standard diagnosis criteria;
entering a diagnosis and a treatment plan into the personal communicator;
comparing the new patient data, the diagnosis and the treatment plan against known patient data and against a medical database; and
enabling, through the personal communicator, the following actions:
initiating implementation of the treatment plan;
displaying the standard diagnosis criteria to the medical practitioner; and
displaying an alarm and a recommendation, and allowing the medical practitioner to revise the diagnosis and treatment plan.

Claim 33 recites “determin[ing] standard diagnosis criteria” and “displaying the standard diagnosis criteria to the medical practitioner.” The Examiner indicated that McIlroy discloses using a standard diagnosis criteria database and a portion of the new patient data to determine standard diagnosis criteria and displaying the standard diagnosis criteria to the medical practitioner. Applicant respectfully disagrees for at least the same reasons as set forth with reference to independent claim 1. Accordingly, Applicant respectfully submits that claim 33 and claims 34, 36 and 37 dependent therefrom are patentable over Leet in view of McIlroy and respectfully requests that the rejection be withdrawn.

In paragraph 5, the Examiner rejected claims 9 and 10 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy and further in view of Portwood (5,950,630). Claim 9 reads as follows:

9. *The computer system of claim 1 wherein the treatment plan comprises a prescription and the first means comprises*
a get drug data means for retrieving from a pharmacy one or more drugs prescribed for the patient and from the known patient data identification of drugs that the patient is taking and foods the patient typically eats; and
an interaction checking means for accessing a drug/food interaction database with (a) the one or more drugs prescribed for the patient, (b) the drugs that the patient is taking, (c) the prescription and (d) the foods the patient typically eats, to produce an alarm if there is an indication of an interaction.

Specifically, the Examiner interpreted “diet” to be a form of “foods the patient typically eats.” However, Table IV of Leet recites a “Regular Diet.” The phrase “Regular Diet” suggests that no limitation is imposed on what the patient eats. However, the phrase “Regular Diet” gives no indication of the foods the patient typically eats. What a person typically eats may be affected by what the person chooses to eat. Applicant therefore respectfully disagrees with the Examiner’s interpretation of “diet.” Accordingly, Applicant respectfully submits that claim 9 and claim 10 dependent therefrom are patentable over Leet in view of McIlroy and further in view of Portwood and respectfully requests that the rejection be withdrawn.

In paragraph 6, the Examiner rejected claims 11-13 and 38 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy and further in view of Evans (5,924,074).

In paragraph 6(A), the Examiner addressed claim 11, which reads as follows:

11. *The computer system of claim 1 wherein the treatment plan comprises a prescription and radiology tests and the first means comprises*
a get drug data means for retrieving from a pharmacy one or more drugs prescribed for the patient and from the known patient data identification of drugs that the patient is taking; and
an X-ray compatibility checking means for accessing a radiology/drug interaction database with (a) the one or more drugs prescribed for the patient, (b) the drugs that the patient is taking, (c) the prescription and (d) the radiology tests from the treatment plan, to produce an alarm if there is an indication of an interaction.

Specifically, the Examiner indicated that Evans teaches testing for radiology/drug interactions. However, Evans does not describe using a portion of the new patient data to determine standard diagnosis criteria for a medical practitioner. Accordingly, Applicant respectfully submits that claim 11 is patentable over Leet in view of McIlroy and further in view of Evans and respectfully requests that the rejection be withdrawn.

In paragraph 6(D), the Examiner addressed claim 38, which recites accepting clinical notes via a spoken rendering. Claim 38 depends from independent claim 33. Applicant submits that, for at least the same reasons as set forth with reference to claim 33, claim 38 is patentable over Leet in view of McIlroy and further in view of Evans and respectfully requests that the rejection be withdrawn.

In paragraph 7, the Examiner rejected claim 23 under 35 USC § 103(a) as unpatentable over Leet in view of McIlroy and further in view of Barry (6,081,786). Claim 23 reads as follows:

23. *The computer system of claim 1 further comprising a personal communicator including a display having
a red alert area, where alarms regarding the potential for a major adverse effect are displayed; and
a yellow alert area, where alarms regarding the potential for a minor effect or need for closer monitoring are displayed.*

The Examiner indicated that Barry teaches a personal communicator including a display having a red alert area and a yellow alert area. However, Barry does not describe using a portion of the new patient data to determine standard diagnosis criteria for a medical practitioner. Accordingly, Applicant respectfully submits that claim 23 is patentable over Leet in view of McIlroy and further in view of Barry and respectfully requests that the rejection be withdrawn.

For at least the foregoing reasons, Applicant respectfully submits that the 35 U.S.C. § 103(a) rejections of the pending claims have been overcome.

CONCLUSION

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner. In view of the foregoing discussions, Applicant believes that the differences between the claimed invention and the cited and relied upon references are such that the claimed invention is patentably distinct over the cited and relied upon references. Therefore, allowance of the pending claims is believed to be in order.

The Commissioner is hereby authorized to charge any required fees from Deposit Account No. 502811.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at 650.856.3911.

Respectfully submitted,

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